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UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA

NADINE HAYS,  <div style="text-align: center;">Plaintiff,</div>  vs.  LOS ANGELES POLICE DEPARTMENT, et al.,  <div style="text-align: center;">Defendants.</div>	) Case No. CV12-10219 DMG(PJW) ) ) <b>DEFENDANTS' OBJECTIONS</b> ) <b>TO PLAINTIFF'S REQUEST TO</b> ) <b>THE COURT TO ACCEPT HER</b> ) <b>PROPOSED MANNER OF</b> ) <b>CONDUCTING HER</b> ) <b>DEPOSITIONS</b> ) ) <u>Accompanying Papers:</u> ) Declarations of Hilary E. Feybush ) and Elizabeth L. Greenwood ) ) Complaint filed: November 29, ) 2012
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1 **I. INTRODUCTION**

2 Defendants LOS ANGELES POLICE DEPARTMENT, ALEX VARGAS,  
 3 JAVIER NAVARRO, JORGE RODRIGUEZ, PETE ECHAVARRIA, MICHAEL  
 4 BRAUSAM, DERRICK PRUDE, DERRICK DOMINGUEZ, JASON DE LA  
 5 COVA, ANDREW VERGARA JR., DONALD SCHWARTZER, HORACE  
 6 FRANK, KEVIN MONTGOMERY, LARRY GUILLEN AND RONALD  
 7 CRUMP ("City Defendants") and ROBERT TAYLOR ("Taylor") (City  
 8 Defendants and Taylor are collectively referred to herein as "Defendants") hereby  
 9 submit their Objections to Plaintiff NADINE HAYS' ("Plaintiff") Request to the  
 10 Court to Accept her Proposed Manner of Conducting her Depositions and to Order  
 11 Defense Counsel to Cooperate with Plaintiff so that her Depositions will Run  
 12 Smoothly ("Request").

13 This lawsuit arises from Plaintiff's belief that her arrest on April 25, 2012 by  
 14 the Los Angeles Police Department violated her civil rights. In addition to various  
 15 City Defendants, she has included a private security guard, Defendant Taylor. In  
 16 her most recent Request to the Court, Plaintiff requests that she be exempt from  
 17 "the standard Court Reporter system" because it "is not financially feasible for  
 18 Plaintiff." At the deposition of Defendant Officer Vergara on May 28, 2014,  
 19 Plaintiff had a notary public present to swear in the Officer Vergara but had her  
 20 own personal GoPro camera set up that she, herself, would be operating during the  
 21 deposition, therefore acting as the deposition officer. Since Plaintiff's proposed  
 22 method of conducting depositions does not comport with the Federal Rules of Civil  
 23 Procedure and since an exception should not be made for Plaintiff as she is not  
 24 indigent and as there is no basis for allowing a civil litigant to violate the Rules of  
 25 Federal Civil Procedure in any event, despite her representations to the Court to the  
 26 contrary, Defendants respectfully request that this Court deny Plaintiff's Request.

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1 **II. RELEVANT FACTS**

2 **A. Meet and Confer Efforts Regarding Plaintiff's Proposed Manner**

3 On April 28, 2014, Plaintiff sent an email correspondence to Lisa Garner,  
4 counsel for Defendant Taylor, and to Elizabeth Greenwood of the City Attorney's  
5 office, Counsel for all other defendants, requesting the parties stipulate to various  
6 conditions for the depositions Plaintiff would be conducting. See Declaration of  
7 Hilary E. Feybush in Support of Defendants' Objections ("Feybush Decl.") at ¶ 2,  
8 Ex. A. That same date, Ms. Garner responded stating that, as she had previously  
9 informed Mrs. Hays, Ms. Garner would not be willing to forgo having a deposition  
10 officer monitor the official record of any deposition. Feybush Decl. at ¶ 3, Ex. B.  
11 Ms. Garner explained that Plaintiff's proposed method did not comport with  
12 Federal Rules and directed Plaintiff to Federal Rules of Civil Procedure Rule 30,  
13 specifically Rules 30(b)(5) and 30(c). *Id.* On April 29, 2014, Ms. Garner repeated  
14 that she would not stipulate to any method contrary to the Federal Rules of Civil  
15 Procedure and explained once again that a deposition office must conduct the  
16 entire deposition proceeding, not just one part of it. Feybush Decl. at ¶ 4, Ex. C.

17 On May 11, 2014, Plaintiff emailed counsel for Defendants her "Stipulations  
18 of the Parties Regarding Plaintiff's Proposed Manner of Conducting Depositions  
19 Noticed by Plaintiff and Request for a Court Order" and stated that she assumed  
20 they are still going to argue against her proposal. Feybush Decl. at ¶ 5, Exs. D and  
21 E. If so, Plaintiff asked counsel to print out the Opinion page of her attachment  
22 and send the justifications to why they are not willing to agree. *Id.*

23 On May 14, 2014, counsel for Defendant Taylor sent Plaintiff his Opposition  
24 to Plaintiff's Proposed Stipulation and once again explained that Plaintiff's  
25 proposed method of conducting the depositions do not comport with the Federal  
26 Rules of Civil Procedure. Feybush Decl. at ¶ 6, Ex. F. Counsel for Taylor  
27 included the relevant Rules of Civil Procedure and explained that he would not  
28 stipulate to the proposed method and maintained that the depositions must be

1 conducted before an officer appointed or designated under Rule 28. *Id.*

2 On May 28, 2014, Ms. Greenwood, Ms. Feybush, counsel for Defendant  
3 Taylor, and Defendant Officer Vergara appeared for Officer Vergara's deposition  
4 at 10:00 a.m. See Declaration of Elizabeth L. Greenwood in Support of  
5 Defendants' Objections ("Greenwood Decl.") at ¶ 2; Feybush Decl. at ¶ 7. When  
6 they arrived, Plaintiff was in the room with a notary public and her own personal  
7 GoPro camera without a deposition officer present to record the deposition in  
8 compliance with the Federal Rules of Civil Procedure. *Id.* Ms. Greenwood  
9 repeatedly told Plaintiff that counsel would not stipulate to a notary swearing in the  
10 witness and allowing Plaintiff to operate the recording device. *Id.* Ms. Greenwood  
11 reminded Plaintiff that at the Court hearing last week, the Court informed Plaintiff  
12 multiple times that a notary was not a proper deposition officer. *Id.* Ms.  
13 Greenwood reminded Plaintiff that the Court further told her that if she was to  
14 proceed with the depositions in that manner, Plaintiff needed to get a stipulation  
15 from Defendants or convince the Court. *Id.* Since counsel for Defendants had not  
16 stipulated and there was not a Court order, Ms. Greenwood said she would not  
17 allow the deposition to go forward. *Id.*

18 On May 29, 2014, Plaintiff sent an email to counsel at 12:09 a.m. stating that  
19 they failed to produce the officers as noticed for their depositions that day and  
20 cancelling all depositions noticed by Plaintiff "until further notice." Feybush Decl.  
21 at ¶ 8, Ex. G.

22 In response to Plaintiff's email, Ms. Greenwood stated that she did present  
23 her clients as she was there with Officer Vergara on May 28, 2014 at 10:00 a.m.  
24 and at 1:00 p.m. with Lieutenant Montgomery. Greenwood Decl. at ¶ 3, Ex. A. In  
25 addition, they were prepared to attend the noticed deposition of Officer Juaregui at  
26 3:00 p.m. *Id.* However, Plaintiff was not there and neither was a court reporter.  
27 *Id.* Ms. Greenwood explained that on May 29, 2014, Officer Dominguez arrived at  
28 9:00 a.m. and was available for his deposition at 10:00 a.m. *Id.* Ms. Greenwood

1 further explained that when she arrived with Ms. Feybush and Officer Vergara on  
2 May 28, 2014, Plaintiff was in the room with a notary and her own GoPro camera  
3 without a deposition officer present to record the deposition in compliance with the  
4 Federal Rules of Civil Procedure. *Id.* Ms. Greenwood stated that neither she nor  
5 counsel for Defendant Taylor had stipulated to Plaintiff's proposed deposition  
6 manner and Ms. Greenwood had not seen an order from the Court allowing her to  
7 use a notary. *Id.* Ms. Greenwood explained that they had waited until 1:30 p.m. to  
8 see if she would return for her noticed deposition but she did not appear. *Id.* They  
9 also waited until after 3:00 p.m. to see if she would proceed with Officer  
10 Juaregui's deposition, but Plaintiff also did not appear. *Id.* On May 29, 2014,  
11 defense counsel and Officer Dominguez came into the office prepared to proceed  
12 with the deposition but Plaintiff had sent an email after midnight canceling all  
13 further depositions when no one was in the office able to cancel the officer's  
14 deposition. *Id.* Ms. Greenwood explained to Plaintiff that the City of Los Angeles  
15 had spent significant resources providing conference rooms for the depositions in  
16 this matter and that by failing to comply with the Federal Rules of Civil Procedure  
17 and the Court's order, Plaintiff needlessly wasted the City's resources. *Id.*

18 On Saturday June 7, 2014, Plaintiff emailed counsel for Defendants asking  
19 whether they are going to allow her to proceed with Defendant Taylor's deposition  
20 on Wednesday. Feybush Decl. at ¶ 9, Ex. H. Plaintiff commented that "Ms.  
21 Garner even has her full-time deposition officer." *Id.* Plaintiff stated that if  
22 counsel wanted to hire a court reporter so they could have a transcript through a  
23 court reporting agency that is their option to choose and would have to pay for  
24 their own manner of recording. *Id.*

25 On June 9, 2014, counsel for Taylor responded to Plaintiff explaining that if  
26 she was still planning to proceed by having a notary swear in Mr. Taylor and then  
27 video-record the deposition herself, as she had planned to do on May 28, 2014, the  
28 answer is that such manner of conducting the deposition does not comport with the

1 Federal Rules of Civil Procedure. Feybush Decl. at ¶ 10, Ex. I. Counsel would not  
 2 permit the deposition to proceed in that manner. *Id.* Counsel for Defendant Taylor  
 3 further stated that Ms. Garner and her firm do not have full-time deposition  
 4 officers in their employ, but rather has to hire them in the same way Plaintiff  
 5 would have to do so. *Id.* Counsel requested that if Plaintiff planned to hire a court  
 6 reporter or deposition officer to handle the deposition to let counsel know by noon  
 7 on June 9, 2014 so they could try to see if they could reschedule Mr. Taylor for  
 8 June 11, 2014, as Mrs. Hays had notified everyone on May 30 that the depositions  
 9 had been canceled. No response to this email was forthcoming. *Id.*

10 On June 10, 2014, this Court rejected Plaintiff's Questions and Concerns for  
 11 the Court Regarding Discovery Issues; Personal Matters Affecting Plaintiff's  
 12 Ability to Function in which she discusses her proposed manner for conducting  
 13 depositions. Court Doc. No. 91. In Plaintiff's Questions and Concerns, Plaintiff  
 14 proposed that once the deposition has been recorded, she can have it transcribed in  
 15 one of three manners: (1) Plaintiff can transcribe the recording herself and then  
 16 have a neutral third party certify the transcription; (2) Plaintiff can have a  
 17 stenographic student who has the proper court software do the transcription work;  
 18 or (3) Plaintiff can have a court reporting agency transcribe only portions of the  
 19 deposition. *Id.*

#### 20 **B. Plaintiff's Financial Condition**

21 Throughout her proposals and requests to this Court and defense counsel,  
 22 Plaintiff misrepresents her financial condition when she states the reason she needs  
 23 to conduct the depositions in a different manner is due to her alleged dire financial  
 24 condition.

25 In Plaintiff's "Stipulations of the Parties Regarding Plaintiff's Proposed  
 26 Manner of Conducting Depositions Noticed by Plaintiff and Request for a Court  
 27 Order" that she sent to defense counsel on May 10, 2014, Plaintiff states she is  
 28 asking opposing counsel to allow her to conduct her depositions in her proposed

1 manner because “funds are extremely limited for her.” Ex. E to Feybush Decl.,  
 2 pg. 1, lns. 1-3. Plaintiff further contends that she would be severely prejudiced if  
 3 she is not allowed to conduct her depositions in the manner she proposes because  
 4 the cost of a deposition through a Court Reporter “is a sum of money that is not  
 5 affordable for Plaintiff.” *Id.* at pg. 1, ln. 16-19.

6 In Plaintiff’s current Request to the Court that is the subject of this very  
 7 Objection, Plaintiff told this Court that “[t]he standard Court Reporter system is  
 8 not financially feasible for Plaintiff.” Court Doc. No. 85, pg. 2, lns. 2-3. Plaintiff  
 9 further contended that she “will be highly prejudiced if the Court insists that  
 10 Plaintiff must use one of the very expensive court reporting agencies. Such an  
 11 order could make one’s search for justice impossible simply because of the Costs.  
 12 *Id.* at pg. 6, lns. 16-18.

13 Plaintiff’s numerous contentions to this Court and defense counsel that she  
 14 does not have the financial resources to follow the Federal Rules and use the  
 15 “standard Court Reporter system” is false.

16 Plaintiff’s primary residence is located at 370 Highland Hills Drive,  
 17 Camarillo, California 93010 has five bedrooms and four and a half bathrooms with  
 18 a pool and is located on 1.4 acres. Feybush Decl. at ¶ 12, Ex. J. Plaintiff’s  
 19 residence is estimated to be worth One Million Five Hundred Fifth Two Thousand  
 20 Six Hundred Ninety Three Dollars (\$1,552,693.00). *Id.*

21 In Plaintiff’s email on May 26, 2014 regarding her “Proposed Manner of Doing  
 22 Her Depositions” to defense counsel, Plaintiff explained, “Normally on Memorial  
 23 Day weekend my husband and I are up at Big Bear, staying in our cottage, and  
 24 sailing.” Feybush Decl. at ¶ 13, Ex. K. Clearly, Plaintiff is not indigent if she has  
 25 a second home besides her residence in Camarillo, California.

26 Plaintiff’s financial condition is further evidenced by her husband John  
 27 Hays’ deposition testimony from May 21, 2014:

28 ///

- 1 • “. . . taking care of our home and the estate and her [Plaintiff]  
2 apartment building that she inherited from her father. . . ***Over 37***  
3 ***years of marriage, we have accumulate an estate.*** . . We have  
4 a 1997 Malibu ski boat that sits in storage. We have a 2000  
5 Discovery motor home that sits on stilts. . . We have a 2007, I  
6 think, trailerable MacGregor sailboat, 26-footer that sits in  
7 storage. We have a house with a swimming pool that I can’t  
8 take care of it anymore by myself. We have a place in Big  
9 Bear. . . So I’m very blessed to have a lot of stuff and very  
10 challenged to learn how to take care of it all by myself because  
11 I’m embarrassed to say that all I did was get up in the morning  
12 and go sell stuff. I sold and I made money.” Feybush Decl. at  
13 ¶ 14, Ex. L, p. 42, ln 17 – p. 43, ln.17, emphasis added.
- 14 • “We have two [cars]. . . 2006 Tahoes, papa tow and nana tow,  
15 because we’re supposed to be towing our toys. And we have a  
16 Silverado truck that’s supposed to be delivering product, and I  
17 inherited it. . . I wound up with a 1963 Cabriolet Porsche”. *Id.*  
18 at p. 125, ln. 10-15.
- 19 • “I have been a success financially. I have been a No. 1  
20 salesman for many years, yep.” *Id.* at p. 137, ln. 12-13.

21 As demonstrated above, Plaintiff clearly has the financial means to hire a  
22 Court Reporter or Deposition Officer and has on multiple occasions  
23 misrepresented her current financial situation to this Court and defense counsel in  
24 an attempt to allow herself to be exempt from the Federal Rules of Civil Procedure  
25 regarding depositions by oral examination.

### 26 **III. LEGAL ARGUMENT**

#### 27 **A. As a Pro Se Litigant, Plaintiff Is Not Excused From Following the** 28 **Rules of Civil Procedure**

29 The Ninth Circuit has held that pro se litigants must follow the same rules of  
30 procedure that govern other litigants and are not excused from following court  
31 rules. *Briones v. Riviera Hotel & Casino*, 116 F.3d 379, 381-382 (9th Cir. 1997).  
32 *American Ass'n of Naturopathic Physicians v. Hayhurst*, 227 F.3d 1104, 1108-  
33 1108 (9th Cir. 2000). In addition, Local Rule 1-3 states, “Persons appearing pro se  
34 are bound by these rules, and any reference in these rules to ‘attorney’ or ‘counsel’  
35 applies to parties pro se unless the context requires otherwise.” Central District of  
36 California, L.R. 1-3. Furthermore, Local Rule 83-2.2.3 states, “Any person

1 appearing *pro se* is required to comply with these Local Rules, and with the  
 2 F.R.Civ.P., F.R.Crim.P., F.R.Evid. and F.R.App.P.” Central District of California,  
 3 L.R. 83-2.2.3.

4 Despite these rules, Plaintiff is constantly seeking exceptions to the rules due  
 5 to her *pro se* litigant status. On May 26, 2014, Plaintiff requested that defense  
 6 counsel burn on a DVD all of the depositions that Defendants had taken in  
 7 exchange for \$10 per DVD because she asked the Court Reporter for these  
 8 documents but said they insisted she purchase the entire transcript. Greenwood  
 9 Decl. at ¶ 4, Ex. B. On May 29, 2014, Ms. Greenwood explained to Plaintiff that  
 10 she must bear the cost of her litigation. Greenwood Decl. at ¶ 5, Ex. C. Ms.  
 11 Greenwood further explained that defense counsel purchased the deposition  
 12 transcripts from the court reporting company and explained to Plaintiff that the  
 13 reasonable fee the FRCP refers to is the amount the court reporting agency  
 14 charges, which includes the time and labor of the court reporter. *Id.* Ms.  
 15 Greenwood stated that Plaintiff was asking her to steal their labor and work  
 16 product and sell it to Plaintiff, which is soliciting Ms. Greenwood to commit a  
 17 crime. *Id.*

18 Plaintiff, as a *pro se* litigant in a civil matter, should be held to the same  
 19 standards as any other litigant who is required to follow the Federal Rules of Civil  
 20 Procedure regarding the taking of oral depositions. Counsel for Defendants have  
 21 had to follow the Federal Rules and incur the expenses of hiring deposition officers  
 22 and receiving certified copies of the transcripts. Accordingly, Plaintiff should also  
 23 be required to incur the costs of conforming with the Federal Rules of Civil  
 24 Procedure in regards to conducting depositions and be required to hire a deposition  
 25 officer to monitor all aspects of the deposition.

26 Federal Rules of Civil Procedure Regarding Oral Depositions

27 Rule 30 of the Federal Rules of Civil Procedure guide depositions by oral  
 28 examination. In regards to the method of recording, Rule 30 (b)(3) states:

1 The party who notices the deposition must state in the notice  
 2 the method for recording the testimony. Unless the court orders  
 3 otherwise, testimony may be recorded by audio, audiovisual, or  
 stenographic means. ***The noticing party bears the recording***  
***costs.***

4 FRCP Rule 30(b)(3)(A) (emphasis added). In discussing the deposition officer  
 5 duties, Rule 30(b)(5) states:

6 (A) Before the Deposition. Unless the parties stipulate  
 7 otherwise, ***a deposition must be conducted before an officer***  
***appointed or designated under Rule 28.*** The officer must begin  
 the deposition with an on-the-record statement that includes:

- 8 (i) the officer's name and business address;
- 9 (ii) the date, time, and place of the deposition;
- 10 (iii) the deponent's name;
- 11 (iv) the officer's administration of the oath or affirmation  
 to the deponent; and
- 12 (v) the identity of all persons present.

13 (B) Conducting the Deposition; Avoiding Distortion. If the  
 14 deposition is recorded nonstenographically, the officer must  
 repeat the items in Rule 30 (b)(5)(A)(i)-(iii) at the beginning of  
 each unit of the recording medium. The deponent's and  
 attorneys' appearance or demeanor must not be distorted  
 through recording techniques.

15 (C) After the Deposition. At the end of a deposition, the  
 16 officer must state on the record that the deposition is complete  
 and must set out any stipulations made by the attorneys about  
 17 custody of the transcript or recording and of the exhibits, or  
 about any other pertinent matters.

18 FRCP Rule 30(b)(5)(A)-(C) (emphasis added).

19 Under Rule 28, "a deposition must be taken before an officer authorized to  
 20 administer oaths either by federal law or by the law in the place of examination."

21 FRCP Rule 28(a)(1)(A). Furthermore, Rule 28 states, "A deposition must not be  
 22 taken before a person who is any party's relative, employee, or attorney; who is  
 23 related to or employed by any party's attorney; or who is financially interested in  
 24 the action." FRCP Rule 28(c). The requirement that "all depositions be recorded  
 25 by an officer designated or appointed under Rule 28 and contains special

26 provisions designed to provide basic safeguards [is] to ***assure the utility and***  
 27 ***integrity of recordings taken other than stenographically.*** Advisory Committee  
 28 Notes to FRCP Rule 30, 1993 Amendments Subdivision (b) (emphasis added).

1 During the examination, “the officer must record the testimony by the  
2 method designated under Rule 30(b)(3)(A). The *testimony must be recorded by*  
3 *the officer personally or by a person acting in the presence and under the*  
4 *direction of the officer.*” FRCP Rule 30(c)(1) (emphasis added).

5 In addition, after the deposition, “[t]he officer must certify in writing that  
6 *the witness was duly sworn and that the deposition accurately records the*  
7 *witness's testimony.* The certificate must accompany the record of the deposition.”  
8 FRCP Rule 30(f)(1) (emphasis added). Furthermore, *the officer must retain a*  
9 *copy of the recording* and when paid reasonable charges, must furnish a copy of  
10 the recording to any party or the deponent. FRCP Rule 30(f)(3).

11 In the Advisory Committee Notes, it explains that:

12 A party choosing to record a deposition only by videotape or  
13 audiotape should understand that a transcript will be required by Rule  
14 26(a)(3)(B) and Rule 32(c) if the deposition is later offered as  
15 evidence at trial or on a dispositive motion under Rule 56. Objections  
to the non-stenographic recording of a deposition, when warranted by  
the circumstances, can be presented to the court under Rule 26(c).”

16 Advisory Committee Notes to FRCP Rule 30, 1993 Amendments  
17 Subdivision (b).

18 **B. Plaintiff's Proposed Method Does Not Comport with the Federal**  
19 **Rules of Civil Procedure**

20 Despite what Plaintiff has previously stated she would do in her Proposed  
21 Manner of Depositions, at the deposition of Officer Vergara on May 28, 2014,  
22 Plaintiff was going to have a notary public swear in Officer Vergara and then  
23 Plaintiff was going to be the one in charge of her GoPro Camera and act as the  
24 deposition officer. Defendants do not dispute that Plaintiff can use a notary public  
25 to swear in the deponent. What Defendants do dispute is that Plaintiff is required  
26 to follow the Federal Rules of Civil Procedure by hiring a deposition officer to  
27 properly conduct the manner in which Plaintiff chooses to record the depositions,  
28 as having a notary public simply swear in the deponent is not sufficient.

1 Under Rule 30(b)(3), Plaintiff, as the noticing party, bears the recording  
2 costs, not defense counsel. Defense counsel has had to bear the costs of recording  
3 and transcribing the depositions they have taken in compliance with the Federal  
4 Rules and Plaintiff should be required to do the same. In fact, the Federal Rule of  
5 Civil Procedure Rule 30, when discussing how the deposition officer is to be  
6 present and take over the manner in which the deposition is recorded, uses the  
7 word "must." See i.e., FRCP Rule 30(c)(1). There is no provision in the rules for  
8 Plaintiff's proposed method of recording the depositions, with her own equipment  
9 and under her own purview. Moreover, there is no provision in the rules, absent  
10 stipulation of the parties, for any variation in the rules as Plaintiff proposes.

11 Defendants do not dispute that Plaintiff can have the depositions videotaped  
12 instead of recorded stenographically. However the deposition is recorded, whether  
13 stenographically or videographically, a deposition officer *must* monitor all aspects  
14 of it and maintain custody of the recording. Plaintiff is required to have the  
15 deposition conducted before an officer designated under Rule 28 which assures the  
16 integrity of the records since the depositions are being taken by means other than  
17 stenographically. In *Morris v. Long*, 2012 U.S. Dist. LEXIS 112368 (E.D. Cal.  
18 2012), the Court granted defendant's motion to preclude the use of video, audio  
19 and/or transcripts of depositions because the examinations failed to comply with  
20 Rules 28 and 30 of the Federal Rules of Civil Procedure since they were taken  
21 before Plaintiff's attorney and not a deposition officer. *Morris v. Long*, 2012 U.S.  
22 Dist. LEXIS 112368, \*42-46 (E.D. Cal. 2012). In line with *Morris*, Plaintiff,  
23 herself, cannot be the one videotaping the deposition, as she attempted to do at the  
24 deposition on May 28, 2014, since there is no assurance of the integrity of the  
25 recording and under Rule 30(c)(1), it must be recorded by the officer personally or  
26 by a person acting under the direction of the officer.

27 Furthermore, Defendants are concerned by the manner in which the  
28 recording will be kept and used in the future for dispositive motions and at trial

1 since a deposition officer is required to retain a copy of the recording and, given  
 2 Plaintiff's proposed manner, there will not be an official record of the depositions.  
 3 See FRCP Rules 30(f)(3) and 32(c).

4 The court is authorized pursuant to Rule 26(c), for "good cause shown" to  
 5 "make any order which justice requires to protect a party or person from  
 6 annoyance, embarrassment, oppression or *undue burden or expense*." FRCP 26(c)  
 7 (emphasis added). However, Plaintiff has not shown that good cause exists for this  
 8 court to make an order to protect her from undue expense. Further, there is no  
 9 provision for changing the rules on how depositions must be conducted. Despite  
 10 Plaintiff's contentions to this Court and defense counsel that she cannot financially  
 11 afford to hire a Court Reporter and that such would cause an undue financial  
 12 hardship, the facts demonstrate otherwise. Accordingly, the Court should not order  
 13 defense counsel to comply with Plaintiff's Request as Plaintiff has not shown good  
 14 cause as to why she should be exempt from the requirements of the Federal Rules  
 15 of Civil Procedure. Moreover, this is a civil case; while Plaintiff may take  
 16 depositions, if she feels that she cannot afford to take them pursuant to the rules,  
 17 there is no reason why she should be entitled to a deposition that does not comport  
 18 with the Federal Rules.

#### 19 **IV. CONCLUSION**

20 Pursuant to the foregoing facts and law, Defendants respectfully request that  
 21 this Court deny Plaintiff's Request to the Court to Accept her Proposed Manner of  
 22 Conducting Her Depositions.

23 Dated: June 17, 2014

GORDON & REES, LLP

24  
 25 By: /s/ Hilary E. Feybush  
 26 Debra Ellwood Meppen  
 27 Lisa K. Garner  
 28 Hilary E. Feybush  
 Attorneys for Defendant  
 ROBERT TAYLOR

1 Dated: June 17, 2014

CITY ATTORNEY

2 By: /s/ Elizabeth L. Greenwood

3 Michael N. Feuer

4 James P. Clark

5 Cory M. Brente

6 Elizabeth L. Greenwood

7 Attorneys for Defendants

8 LOS ANGELES POLICE

9 DEPARTMENT, ALEX VARGAS,

10 JAVIER NAVARRO, JORGE

11 RODRIGUEZ, PETE

12 ECHAVARRIA, MICHAEL

13 BRAUSAM, DERRICK PRUDE,

14 DERRICK DOMINGUEZ, JASON

15 DE LA COVA, ANDRE VERGARA

16 JR., DONALD SCHWARTZER,

17 HORACE FRANK, KEVIN

18 MONTGOMERY, LARRY

19 GUILLEN AND RONALD CRUMP

Hays v. Los Angeles Policy Dept., et al., Case No. CV12-10219 DMG (PJW)

## PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is: Gordon & Rees LLP 633 West Fifth Street, 52<sup>nd</sup> Floor, Los Angeles, CA 90071.

On June 18, 2014, I served the within documents: **DEFENDANTS' OBJECTIONS TO PLAINTIFF'S REQUEST TO THE COURT TO ACCEPT HER PROPOSED MANNER OF CONDUCTING HER DEPOSITIONS**

- ☐ **BY FACSIMILE.** By transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☐ **BY PERSONAL SERVICE.** By causing such document(s) listed above to be personally delivered to the person(s) at the address(es) set forth below.
- ☒ **BY U.S. MAIL.** By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in United States mail in the State of California at Los Angeles, addressed as set forth below.
- ☐ **BY OVERNIGHT SERVICE.** By placing a true copy thereof enclosed in a sealed envelope, at a station designated for collection and processing of envelopes and packages for overnight delivery by FedEx as part of the ordinary business practices of Gordon & Rees LLP described below, addressed as follows:
- ☐ **BY ELECTRONIC.** By transmitting via **ELECTRONIC MAIL** the document(s) listed above to the electronic mail (e-mail) address as follows.:

Nadine Hays  
370 Highland Hills Drive  
Camarillo, CA 93010  
Telephone: (805) 484-4452  
Facsimile: (818) 474-7676  
*Plaintiff In Pro Per*

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on June 18, 2014, at Los Angeles, California.

\_\_\_\_\_  
/s/ Betty Jue

Gordon & Rees LLP  
633 West Fifth Street, 52<sup>nd</sup> Floor  
Los Angeles, CA 90071